

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

Before turning to the merits of the Office Action of March 23, 2007, it is noted that the finality of the rejection of the Office Action of November 6, 2006, has been withdrawn. Although not specifically stated in the Office Action of March 23, 2007, it is assumed that applicant's "Second Reply to Office Action Mailed November 6, 2006" has been entered and that the listing of claims presented in applicant's "Second Reply to Office Action Mailed November 6, 2006" constitutes the claims presently pending in this application.

Turning now to the Office Action of March 23, 2007, claims 20, 21 and 31 to 33 have been rejected under 35 U.S.C. §102(b) as being anticipated by a patent to Ledbetter et al. (US 2,315,862). Claim 20 has been amended to recite "a locking mechanism fixed to the second plate and having a retractable tip extending through the second plate and selectively engaging the first plate", corresponding to structure recited in pending claim 1, and leaving moot the rejection of claims 20 and 21 under 35 U.S.C. §102(b) as being anticipated by Ledbetter et al. The rejection of claims 31 to 33 under 35 U.S.C. §102(b) as being anticipated by Ledbetter et al. is respectfully traversed for reasons which follow.

Claim 31 recites first and second plates which are pivotally connected so that in a first position, the first plate is located within "second portions" of the region defined by the plurality of supports, and so that in a second position, the first plate is rotated to an orientation which is located within "first portions" of the region defined by the plurality of supports. The recited first and second portions are in each case portions of a region defined by a plurality of supports forming a rack for receiving a plurality of components. As a consequence, both the recited first portions and the recited second portions are located between the plurality of supports.

At the bottom of page 2 of the Office Action of March 23, 2007, the drawers 5 are said to be in a first position when closed and in a second position when opened. However, when a drawer 5 is open, and in the second position, the drawer 5 is then located outside of the drawer supporting portion 3, and is not then located within portions of the region defined by the drawer supporting portion 3, distinguishing the claimed structure and overcoming the rejection of claims 31 to 33 under 35 U.S.C. §102(b) as being anticipated by Ledbetter et al.

Claims 20, 21, 23 to 25 and 31 to 36 have been rejected under 35 U.S.C. §102(e) as being anticipated by a published U.S. patent application of Gregorio (US 2003/0042830), or in the alternative, under 35 U.S.C. §103(a) as being obvious over Gregorio.

However, as previously indicated, claim 20 has been amended to recite "a locking mechanism fixed to the second plate and having a retractable tip extending through the second plate and selectively engaging the first plate", which corresponds to structure recited in pending claim 1, and which leaves moot the rejection of claims 20, 21 and 23 to 25 under 35 U.S.C. §102(e) as being anticipated by Gregorio.

Relative to the rejection of claims 20, 21 and 23 to 25 under 35 U.S.C. §103(a) as being obvious over Gregorio, it has been noted that claim 1, as well as claims 3 to 5, 8 to 11, 30 and 45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Gregorio in view of what has been characterized as "disclosed prior art", referring to page 6, lines 2 to 19, of applicant's specification. It is acknowledged at the middle of page 5 of the Office Action of March 23, 2007, that "Gregorio fails to teach a locking mechanism with a retractable tip extending through the second plate and engaging the first plate". However, the position is then taken that because the specification for this patent application indicates that the "locking mechanism 17 is itself known" (at line 4 of page 6), "it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the second plate of Gregorio by adding this type of locking mechanism in the second plate, in addition of the locking mechanism presently used, to hold the first plate in a desired set position with respect to

the second plate". This position is respectfully traversed for reasons which follow.

Firstly, even if the statement made by applicant that the "locking mechanism 17 is itself known" is taken to constitute a disclosure that such locking mechanisms, per se, are known, it is submitted that this does not constitute a disclosure which would teach the person of ordinary skill in the art at the time of the invention that the second plate of Gregorio either could be modified to include "this type of locking mechanism" to hold the first plate in a desired set position with respect to the second plate, or how this modification could be accomplished. This is particularly so when considering that the proposed modification of Gregorio could cause the locking mechanism to interfere with other structures of the cabinet 104 and could prevent free movement of the shelf 108 into and out of the cabinet 104, which would then leave the proposed modification inoperative, both for the purposes stated in the Office Action and for the purposes of Gregorio. Consequently, it is submitted that the modification of Gregorio which is proposed in the Office Action of March 23, 2007, constitutes impermissible hindsight reconstruction of the claimed invention which is based on applicant's disclosure and not on the ordinary skill in the art at the time of applicant's invention.

Secondly, the position taken at the middle of page 5 of the Office Action of March 23, 2007, includes the statement

that the proposed modification of Gregorio to include "this type of locking mechanism" would be "in addition of the locking mechanism presently used". However, Gregorio does not teach any locking mechanism, either "having a retractable tip extending through the second plate and engaging the first plate", or otherwise, giving further support for concluding that the claimed subject matter would not have been obvious to one of ordinary skill in the art at the time of applicant's invention.

In view of the foregoing, it is submitted that claims 1, 3 to 5, 8 to 11, 20, 21, 23 to 25, 30 and 45 would not have been obvious to one of ordinary skill in the art at the time of applicant's invention, overcoming the rejection of such claims under 35 U.S.C. §103(a) over Gregorio, either alone or taken in combination with the statement made in the specification for this patent application at line 4 of page 6.

Returning to the stated rejections of claims 31 to 36 under 35 U.S.C. §102(e) as being anticipated by Gregorio, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Gregorio, and as previously indicated, claim 31 recites first and second plates which are pivotally connected so that in a first position, the first plate is located within second portions of the region defined by the plurality of supports, and so that in a second position, the first plate is rotated to an orientation which is located within first portions of the region defined by the plurality of supports, wherein both the recited first

portions and the recited second portions are located between the plurality of supports.

At the top of page 5 of the Office Action of March 23, 2007, Fig. 1 is said to constitute the recited first position and Fig. 2 is said to constitute the recited second position. However, in Fig. 2, the shelf 108 and the supported television 102 are both then located outside of the receiving cabinet 104, and are not then located within portions of the region defined by the cabinet 104, distinguishing the claimed structure and overcoming the rejection of claims 31 to 36 under 35 U.S.C. §102(e) as being anticipated by Gregorio.

Moreover, Gregorio repeatedly indicates that the shelf 108 is provided for moving the component supported by the shelf 108 (such as the television 102) "between a first position within the cabinet and a second position extended from an exterior surface of the cabinet... such that the support shelf is entirely outside the cabinet when in the second position." (paragraphs [0010] and [0011], and also noting paragraphs [0025], [0029] and [0031]). This clearly fails to teach the person of ordinary skill in the art at the time of applicant's invention how to move the shelf 108 between a first position located within second portions of the region defined by the cabinet 104 and a second position located within first portions of the region defined by the cabinet 104, wherein both the first portions and the second portions of the defined region are located within the cabinet

104.

In view of the foregoing, it is submitted that claims 31 to 36 would not have been obvious to one of ordinary skill in the art at the time of applicant's invention, overcoming the rejection of such claims under 35 U.S.C. §103(a) over Gregorio.

In addition to the foregoing, it should be noted that claim 20 has been amended to recite a "fixture for mounting a component to a rack for supporting a plurality of components, consisting essentially of" enumerated elements, which further distinguishes the multi-component devices disclosed by Ledbetter et al. and Gregorio. Claim 50 has been newly added to properly present structure formerly included in dependent claims 22 to 30, following amendment of the form of independent claim 20. Claims 48, 49 and 51 are newly added to recite the structure disclosed in applicant's specification at lines 6 to 8 of page 6, further distinguishing the devices disclosed by Ledbetter et al. and Gregorio.

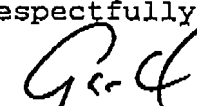
In view of the foregoing, it is submitted that this patent application is in condition for allowance, and corresponding action is earnestly solicited.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on: June 5, 2007.

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Respectfully submitted,


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